

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
EL DORADO DIVISION

CRYSTAL BROWN

PLAINTIFF

VS.

CASE NO. 06-CV-1110

JAMES WHITE d/b/a  
JACKSON HEWITT TAX SERVICE

DEFENDANT

**ORDER**

Before the Court is Defendant's Motion to Dismiss. (Doc. No. 2). In his motion, the Defendant asks that the Plaintiff's Complaint against him be dismissed on the grounds that he does not meet the definition of an "employer" under either Title VII of the Civil Rights Act of 1964 or the Arkansas Civil Rights Act. The Plaintiff has not filed a response to Defendant's motion.

The Plaintiff Crystal Brown filed this lawsuit against James White d/b/a Jackson Hewitt Tax Service alleging gender discrimination in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"), as amended, 42 U.S.C. §§2000(e), et seq., and the Arkansas Civil Rights Act of 1991 ("ACRA"). In order for the Defendant to be subject to the anti-discrimination provisions of either Title VII or the ACRA, he must meet the statutory definition of an "employer" under the statutes. Under Title VII, an employer is defined as "a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year." 42 U.S.C. 2000e(b). Under the ACRA, an employer is defined as "a person who employees nine (9) or more employees in the

State of Arkansas in each of twenty (20) or more calendar weeks in the current or preceding calendar year. Ark. Code Ann. §16-123-102(5). Therefore, if the Defendant did not have either nine or more employees or fifteen or more employees for each working day for 20 or more calendar weeks during 2006 or 2005, he is not subject to Title VII or the ACRA.

The evidence before the Court indicates that the Defendant did not have the requisite number of employees necessary for him to be subject to either of these statutes. The Plaintiff has not submitted any evidence to refute this evidence. Therefore, the Court finds that the Defendant does not meet the statutory definition of an “employer” under either Title VII or the ACRA and he is not subject to either of these Acts. Accordingly, the Court finds that the Defendant’s Motion to Dismiss should be and hereby is **granted**. Plaintiff Crystal Brown’s Complaint against the Defendant James White d/b/a Jackson Hewitt Tax Service is hereby **dismissed**

IT IS SO ORDERED, this 21<sup>st</sup> day of March, 2007.

/s/Harry F. Barnes  
Hon. Harry F. Barnes  
United States District Judge